

IV. A. Background

Notes:

History of CERCLA & ARARs

- 1980 CERCLA enacted
- 1982 Cleanup levels determined site-by-site
- 1985 ARARs concept introduced by EPA
- 1986 SARA amended CERCLA
Section 121 - adopted ARARs concept

Background

Notes:

1980 Congress Passed CERCLA

CERCLA did not specify how other laws should apply or what degree of “cleanliness” should be attained.

1982 NCP Revised

EPA considered and rejected the idea of national cleanup standards and decided cleanup levels should be determined on a site-by-site basis.

1985 NCP Revised, ARARs Concept Introduced

The 1985 NCP required that, with some exceptions, CERCLA actions comply with ARARs. EPA published *CERCLA Compliance With Other Environmental Statutes Policy*, which contained lists of potential ARARs and TBCs. State laws were considered TBCs.

1986 Congress Passed SARA

Congressional dissatisfaction with CERCLA implementation prompted the enactment of SARA. Congress wanted to shift the focus of cleanups from temporary solutions that limit exposure to treatment and permanent solutions. SARA codified EPA's approach of using ARARs to establish cleanup standards at CERCLA sites. SARA added CERCLA Section 121 “Cleanup Standards” which requires that CERCLA actions be protective of human health and the environment and comply with ARARs. State laws that are more stringent than Federal laws were made potential ARARs.

Environmental Defense Fund & the State of New Jersey File Suit

- Settlement in 1984 directed EPA to:
 - ⇒ Use quantitative health and environmental standards under other programs and
 - ⇒ Promulgate a rule to incorporate the use of other environmental standards for remedial response

Background

Notes:

Compliance with Other Environmental Statutes Policy

- October 1985
- Policy incorporated into 1985 NCP revisions

Background

Notes:

CERCLA Section 121: “Cleanup Standards”

- SARA added Section 121 to CERCLA in 1986
- Section 121 codifies ARARs concept

Background

Notes:

Section 121(d) requires, with respect to any hazardous substance that will remain onsite, that remedial action attain any federal standard or requirement, or any more stringent promulgated state standard or requirement, that is:

- legally applicable to the hazardous substance; or
- relevant and appropriate under the circumstances.

NCP Subpart E

- Hazardous Substances Response
- National Contingency Plan (NCP) implements ARARs requirement

Background

Notes:

The NCP establishes regulations implementing CERCLA requirements, including requirements to identify, evaluate, and demonstrate attainment of ARARs with respect to proposed remedial action and, to the maximum extent practicable, with respect to removal action.